

The Commonwealth of Massachusetts
OFFICE OF THE DISTRICT ATTORNEY
FOR THE NORFOLK DISTRICT

45 Shawmut Road * Canton * Massachusetts * 02021
Telephone: 781-830-4000

Facsimile: 781-830-4801



Michael W. Morrissey
Norfolk District Attorney

FACSIMILE

To: Julk Nassif From: AOA Mark McDonnell
Fax: 617 983 6662 Pages: 5 (Including Cover)
Phone: _____ Date: 6/25/12
Re: _____ CC: _____

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Rule 17 motion for this Thursday June 28.

CWV. [REDACTED]

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LAW OFFICE OF
THOMAS J. IOVIENO
755 EAST BROADWAY
SOUTH BOSTON, MASSACHUSETTS 02127
617.464.3300
FAX 617.464.3302

June 22, 2012

Criminal Clerk's Office
Norfolk Superior Court
650 High Street
Dedham, MA 02026

Re: Commonwealth
v. [REDACTED]
Norfolk Superior Court
Crim.No: [REDACTED]

Dear Sir or Madam:

Enclosed for filing please find the following documents:

1. Defendant's Motion for the Issuance of a Mass. R. Crim. Pro. 17 Subpoena re:
State Drug Lab

A hearing on this matter is currently scheduled for Thursday June 28, 2012 @ 2:00 p.m. Please file these documents with the rest of the papers in this matter.

Should you have any questions, please do not hesitate to call. Thank you for your cooperation in this matter.

Very truly yours,


Thomas J. Iovieno

TJI/cle
enclosures

cc: Atty. Matthew McDonough
Atty. Ethan Yankowitz

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

SUPERIOR COURT
CRIMINAL NO.


COMMONWEALTH

v.


MOTION PURSUANT TO MASS. R. CRIM. PRO. 17 (a) (2) FOR ISSUANCE OF A
SUBPOENA FOR THE PRODUCTION OF RECORDS
FROM THE STATE DRUG LAB

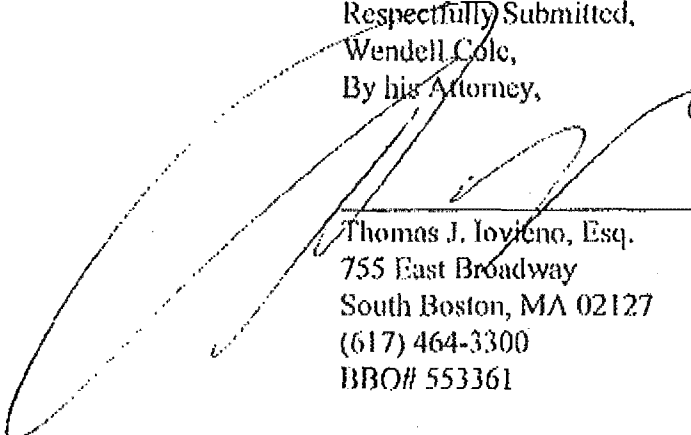
Now comes the Defendant in the above matter, and pursuant to Mass. R. Crim. Pro. 17 (a) (2) hereby respectfully requests that the court order the Commonwealth of Massachusetts Executive Office of Health and Human Services on 250 Washington Street, Boston, MA 02108 to produce the any and all records specifically as set forth in the attached Motion for Discovery advanced by the Defendant and previously filed with the court on April 2, 2012. Defendant requests that the court order issuance of a summons for the production of these records prior to trial so as to provide Defendant with an opportunity to review and copy said records for use in the defense of the complaint as the information contained within said records may lead to exculpatory evidence and/or necessary to review for trial preparation.

As grounds thereof, the Defendant relies upon the reason advance in the previously filed discovery motion and further submits that a Mass. R. Crim Pro. 17 motion is not necessary in this matter as the documents and information is within the "care, custody and control" of the Norfolk County District Attorney's Office which routinely provides State Drug Lab records as part of its normal discovery process. The Defendant has filed this motion at the request of the Norfolk District Attorney's Office and Defendant is not to be deemed waiving that the requested discovery is in the District Attorney's "care, custody and control".

Defendant further requests disclosure and access to this information far enough in advance of trial and motions date. Defendant relies upon the affidavit submitted in support.

WHEREFORE, Defendant requests that the court order that the court order the Commonwealth of Massachusetts Executive Office of Health and Human Services on 250 Washington Street, Boston, MA 02108 to produce the any and all records specifically as set forth in the previously filed Motion for Discovery. The Defendant further requests that he be entitled to review and copy said records prior to trial.

Respectfully Submitted,
Wendell Cole,
By his Attorney,



Thomas J. Iovieno, Esq.
755 East Broadway
South Boston, MA 02127
(617) 464-3300
BBO# 553361

Dated: 6/22/12

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

SUPERIOR COURT
CRIMINAL NO.

[REDACTED]

COMMONWEALTH

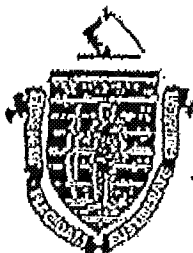
v.

[REDACTED]

ORDER

It is hereby ORDERED that the Commonwealth of Massachusetts Executive Office of Health and Human Services produce any and all documents set forth in the attached Exhibit "1" to the Law Office of Thomas J. Iovieno, 755 East Broadway, South Boston, MA 02127.

Justice of the Superior Court



The Commonwealth of Massachusetts
OFFICE OF THE DISTRICT ATTORNEY
FOR THE NORFOLK DISTRICT

45 Shawmut Road • Canton • Massachusetts • 02021
Telephone: 781-830-4800

Facsimile: 781-830-4801



Michael W. Morrissey
Norfolk District Attorney

FACSIMILE

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Re: 17 motion for this Thursday June 28.

CWV. [REDACTED]

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The Commonwealth of Massachusetts

Office of the District Attorney
FOR THE NORFOLK DISTRICT

Michael W. Morrissey
District Attorney

45 Shawmut Road
Canton, MA 02021
(781) 830-4800
(781) 830-4801 (fax)

February 14, 2012

Thomas Iovieno, Esq.
755 East Broadway
South Boston, MA 02127

Re: CW v. [REDACTED]

Dear Attorney Iovieno:

Enclosed please find a letter my office received from the Department of Public Health regarding a possible breach of protocol with respect to some drug samples. While not named in the DPH letter, the chemist being investigated is Annie Dookhan, the chemist who analyzed the substances in our case. It is the understanding of this office that the chemist may have directly taken evidence from the evidence locker for testing without properly signing for the same and/or obtaining the co-signature of the evidence officer.

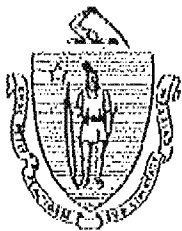
The substances involved in our case are not among the ninety samples mentioned in the DPH letter. I have not been provided any indication that the testing in our case was compromised in any way. I share with you the letter out of an abundance of caution to notify you of the DPH investigation.

If I receive any further information about this matter I will forward it to you immediately. If you have any questions, please contact me at (781) 830-4800, ext. 281.

Very truly yours,

Matthew J. McDonough
Assistant District Attorney

Enclosure



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
250 Washington Street, Boston, MA 02108-4619

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

JUDYANN BIGBY, MD
SECRETARY

JOHN AUERBACH
COMMISSIONER

February 1, 2012

Michael W. Morrissey, Norfolk District Attorney
Norfolk District Attorney's Office
45 Shawmut Road
Canton, MA, 02021

Dear District Attorney Morrissey,

I am writing to inform you that we are currently investigating a possible breach of protocol with respect to ninety drug samples tested at the William A. Hinton State Laboratory Institute. These ninety samples were received exclusively from Norfolk County and assigned for analysis on the same day. Attached is a list of the control numbers for the samples identified in the investigation.

At this time, there is no evidence that this had an impact on the integrity of the samples or the accuracy of the sample analysis. Please be assured that measures were immediately taken to ensure proper compliance with protocol procedures.

Additional information will be provided upon completion of the investigation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda Han".

Linda Han, MD, MPH, Director
Bureau of Laboratory Sciences



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
William A. Hinton State Laboratory Institute
305 South Street, Jamaica Plain, MA 02130
617-983-6622

DEVAL L. PATRICK
Governor
TIMOTHY P. MURRAY
Lt Governor
JUDYANN BIGBY, MD
Secretary
JOHN AUERBACH
Commissioner

DATE RECEIVED: 11/05/2009

DATE ANALYZED: 05/17/2010

NO. [REDACTED]

I hereby certify that the Substance
Contained in 15 plastic bags
Submitted by Detective BRIAN COEN of the Quincy Police Dept.

MARKED: [REDACTED]

Has been examined with the following results:

The substance was found to contain:

Heroin, (diacetylmorphine) as defined in Chapter 94 C, Controlled Substance Act, Section 31, Class A.

The identification of the contents of the 15 plastic bags was determined by analysis of a representative sample of 2 plastic bags. The net weight of the 15 plastic bags was derived from the average weight of the sampled plastic bags.

NET WEIGHT: 2.98 grams

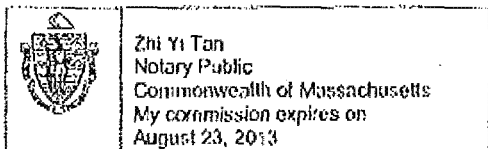
DEFENDANT: [REDACTED]

ASSISTANT ANALYST

Michael Lawler

Annie Dookhan

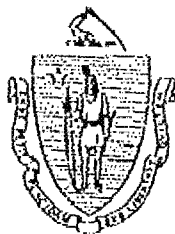
On this day, May 27, 2010, before me, the undersigned notary public, personally appeared the above signed subscriber(s), having proved to me through Department of Public Health documentation to be the person(s) whose name(s) is/are signed on this certificate and to be (an) assistant analyst(s) of the Department of Public Health, and who swore to me that the contents of this document are truthful and accurate to the best of his/her/their knowledge and belief.



Zhi Yi Tan, NOTARY PUBLIC
My commission expires on August 23, 2013

Chapter 111, Section 13 of the General Laws

This certificate shall be sworn to before a Justice of the Peace or Notary Public, and the jurat shall contain a statement that the subscriber is the analyst or assistant analyst of the department. When properly executed, it shall be prima facie evidence of the composition, quality, and the net weight of the narcotic or other drug, poison, medicine, or chemical analyzed, and the court shall take judicial notice of the signature of the analyst or assistant analyst, and of the fact that he/she is such.



DEVAL L. PATRICK
Governor
TIMOTHY P. MURRAY
Lt. Governor
JUDYANN BIGBY, MD
Secretary
JOHN AUERBACH
Commissioner

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
William A. Hinton State
305 South Street, Jamaica
617-983-

Mark McDonough

DATE ANALYZED: 05/17/2010

NO. [REDACTED]

I hereby certify that the Substance
Contained in 4 plastic bags MARKED: [REDACTED]
Submitted by Detective BRIAN COEN of the Quincy Police Dept.

Has been examined with the following results:
The substance was found to contain:
Heroin, (diacetylmorphine) as defined in Chapter 94C, Controlled Substance
Act, Section 31, Class A.
4 items were received and 1 was selected and analyzed.

NET WEIGHT: 0.09 grams (analyzed item only)

DEFENDANT: [REDACTED]

ASSISTANT ANALYST

Michael Lawler
Michael Lawler

Annie Bookhan
Annie Bookhan

On this day, May 27, 2010, before me, the undersigned notary public, personally appeared the above signed subscriber(s), having proved to me through Department of Public Health documentation to be the person(s) whose name(s) is/are signed on this certificate and to be (an) assistant analyst(s) of the Department of Public Health, and who swore to me that the contents of this document are truthful and accurate to the best of his/her/their knowledge and belief.



Zhi Yi Tan
Notary Public
Commonwealth of Massachusetts
My commission expires on
August 23, 2013

Zhi Yi Tan
Zhi Yi Tan, NOTARY PUBLIC
My commission expires on August 23, 2013

Chapter 111, Section 13 of the General Laws

This certificate shall be sworn to before a Justice of the Peace or Notary Public, and the jurat shall contain a statement that the subscriber is the analyst or assistant analyst of the department. When properly executed, it shall be prima facie evidence of the composition, quality, and the net weight of the narcotic or other drug, poison, medicine, or chemical analyzed, and the court shall take judicial notice of the signature of the analyst or assistant analyst, and of the fact that he/she is such.



DEVAL L. PATRICK
Governor
TIMOTHY P. MURRAY
Lt. Governor
JUDYANN BIGBY, MD
Secretary
JOHN AUERBACH
Commissioner

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
William A. Hinton State Laboratory Institute
305 South Street, Jamaica Plain, MA 02130
617-983-6622

DATE RECEIVED: 11/05/2009

DATE ANALYZED: 05/17/2010

NO. [REDACTED]

I hereby certify that the Substance
Contained in 19 plastic bags

MARKED: [REDACTED]

Submitted by Detective BRIAN CORN of the Quincy Police Dept.

Has been examined with the following results:

The substance was found to contain:

Cocaine, a derivative of Coca leaves, as defined in Chapter 94 C, Controlled
Substance Act, Section 31, Class B.

19 items were received and 1 was selected and analyzed.

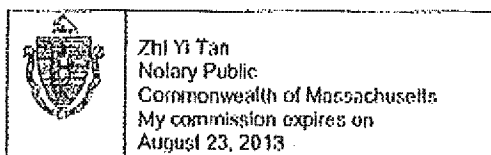
NET WEIGHT: 3.33 grams (analyzed item only)

DEFENDANT: [REDACTED]

ASSISTANT ANALYST

Michael Lawler
Annie Dockhan

On this day, May 27, 2010, before me, the undersigned notary public, personally appeared the above signed
subscriber(s), having proved to me through Department of Public Health documentation to be the person(s) whose
name(s) is/are signed on this certificate and to be (an) assistant analyst(s) of the Department of Public Health, and
who swore to me that the contents of this document are truthful and accurate to the best of his/her/their knowledge
and belief.


Zhi Yi Tan, NOTARY PUBLIC
My commission expires on August 23, 2013

Chapter 111, Section 13 of the General Laws

This certificate shall be sworn to before a Justice of the Peace or Notary Public, and the jurat shall contain a
statement that the subscriber is the analyst or assistant analyst of the department. When properly executed, it shall
be prima facie evidence of the composition, quality, and the net weight of the narcotic or other drug, poison,
medicine, or chemical analyzed, and the court shall take judicial notice of the signature of the analyst or assistant
analyst, and of the fact that he/she is such.